

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION**

**RITA JAMES, Individually and as
Representative of the Wrongful
Death Heirs and ESTATE OF
WILLIAM R. JAMES,**

PLAINTIFFS,

VS.

CIVIL ACTION NO. 3:05CV134-P-A

**UNITED STATES OF AMERICA;
DEPARTMENT OF VETERAN AFFAIRS;
VETERANS AFFAIRS MEDICAL CENTER
OF MEMPHIS, TENNESSEE; AND
JOHN DOES 1-10,**

DEFENDANTS.

ORDER

This matter comes before the court upon the United States of America's Motion to Transfer Case from Jury Trial Docket to Non-Jury Trial Docket [18-1]. After due consideration of the motion the court finds as follows, to-wit:

The Government filed the instant motion on September 22, 2006. The plaintiffs' response deadline was October 11, 2006. The plaintiffs have filed no response nor have otherwise requested additional time to do so.

The plaintiffs filed the instant lawsuit under the Federal Tort Claims Act, 28 U.S.C. §§ 2671 *et seq.* Since this court has jurisdiction pursuant to 28 U.S.C. § 1346, the plaintiffs do not have the right to a jury trial. 28 U.S.C. § 2402 ("any action against the United States under section 1346 shall be tried by the Court without a jury....").

IT IS THEREFORE ORDERED AND ADJUDGED that:

(1) The United States of America's Motion to Transfer Case from Jury Trial Docket to Non-Jury Trial Docket [18-1] is **GRANTED**; and

(2) This case is designated from a jury trial to a bench trial.

SO ORDERED this the 6th day of November, A.D., 2006.

/s/ W. Allen Pepper, Jr. _____
W. ALLEN PEPPER, JR.
UNITED STATES DISTRICT JUDGE